

KARISMA GARCIA
 Name
High Desert State Prison
Po Box 650
Indian Springs, NV. 89070
68529
 Prison Number

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COUNSEL/PARTIES OF RECORD	
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CLERK US DISTRICT COURT DISTRICT OF NEVADA	
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UNITED STATES DISTRICT COURT
 DISTRICT OF NEVADA

KARISMA GARCIA
 Plaintiff,

2:17-cv-00359-APG-CWH

vs.

The State of Nevada ex rel.
Nevada Dept. of Corrections et al.
N.D.O.C. Medical Dept.
N.D.O.C. Medical Director (Areans)
(Warden) Brian Williams (H.D.S.P.)
(Warden) Dwight Neven
(N.D.O.C. Director) James Dzurenda
(ex-NDOC Director) James Cox
(Does 1 through 40)
 Defendant(s).

CIVIL RIGHTS COMPLAINT
 PURSUANT TO
 42 U.S.C. § 1983

(Jury Demand)

A. JURISDICTION

- 1) This complaint alleges that the civil rights of Plaintiff, KARISMA GARCIA,
 (Print Plaintiff's name)

who presently resides at High Desert State Prison, were
Po Box 650 Indian Springs NV 89070

violated by the actions of the below named individuals which were directed against

Plaintiff at High Desert State Prison, Indian Springs on the following dates
 (institution/city where violation occurred)

2012 to date, 2012 to date, and 2012 to date
 (Count I) (Count II) (Count III)

**Make a copy of this page to provide the below
information if you are naming more than five (5) defendants**

- 1) Defendant The State of Nevada ex rel resides at _____
(full name of first defendant) (address if first defendant)
and is employed as _____. This defendant is sued in his/her
(defendant's position and title, if any)
☒ individual ☒ official capacity. (Check one or both). Explain how this defendant was
acting

under color of law: To ensure the rights of prisoners are not violated by its government employees to include state employees

- 2) Defendant Nevada Dept of Corrections resides at 3955 W. Russell Road LV NV 89118
(full name of first defendant) (address if first defendant)
and is employed as _____. This defendant is sued in his/her
(defendant's position and title, if any)
☒ individual ☒ official capacity. (Check one or both). Explain how this defendant was
acting

under color of law: To ensure the rights of prisoners are not violated by its employees and staff and medical staff.

- 3) Defendant James Dzurenda resides at 3955 W Russell Road LV NV 89118
(full name of first defendant) (address if first defendant)
and is employed as NDOC Director. This defendant is sued in his/her
(defendant's position and title, if any)
☒ individual ☒ official capacity. (Check one or both). Explain how this defendant was
acting

under color of law: To ensure the rights of prisoners are not violated by His employees or himself.

- 4) Defendant Romeo Areans resides at 3955 W. Russell Road LV NV 89118
(full name of first defendant) (address if first defendant)
and is employed as NDOC Medical Director. This defendant is sued in his/her
(defendant's position and title, if any)
☒ individual ☒ official capacity. (Check one or both). Explain how this defendant was
acting

under color of law: To ensure proper medical care of inmates in NDOC and to make sure NDOC medical employees and his self do not violate the rights of prisoners/patients.

Make a copy of this page to provide the below
information if you are naming more than five (5) defendants

5) Defendant James Cox resides at unknown,
(full name of first defendant) (address if first defendant)
and is employed as Ex Director of NDOC. This defendant is sued in his/her
(defendant's position and title, if any)
☒ individual ☒ official capacity. (Check one or both). Explain how this defendant was
acting

under color of law: to ensure the rights of prisoners are not violated by employees
staff, medical staff and himself.

6) Defendant Dwight Nexen resides at 3955 W. Russell Road LV, NV 89118
(full name of first defendant) (address if first defendant)
and is employed as Warden within NDOC. This defendant is sued in his/her
(defendant's position and title, if any)
☒ individual ☒ official capacity. (Check one or both). Explain how this defendant was
acting

under color of law: to ensure the rights of prisoners are not violated by employees,
staff and medical staff and himself.

7) Defendant Sheryl Foster resides at unknown,
(full name of first defendant) (address if first defendant)
and is employed as Ex director of NDOC. This defendant is sued in his/her
(defendant's position and title, if any)
☒ individual ☒ official capacity. (Check one or both). Explain how this defendant was
acting

under color of law: to ensure the rights of prisoners are not violated by staff,
employees, medical staff and him/herself.

8) Defendant Dr. Hoover resides at 3955 W. Russell Road LV, NV, 89118
(full name of first defendant) (address if first defendant)
and is employed as Psychiatrists (pogch). This defendant is sued in his/her
(defendant's position and title, if any)
☒ individual ☒ official capacity. (Check one or both). Explain how this defendant was
acting

under color of law: to ensure the rights of prisoners are not violated by
staff, employees, medical staff and herself.

6) Defendant NDOC Medical Dept. resides at 3955 W. Russell Road LV NV 89118
 (full name of first defendant) (address if first defendant)
 and is employed as NDOC Medical Dept.. This defendant is sued in his/her
 (defendant's position and title, if any)
☒ individual ☒ official capacity. (Check one or both). Explain how this defendant was
 acting

under color of law: To ensure the rights of prisoners are not violated by providing constitutionally right medical care to inmates/patients in the NDOC

7) Jurisdiction is invoked pursuant to 28 U.S.C. § 1343 (a)(3) and 42 U.S.C. § 1983. If you wish to assert jurisdiction under different or additional statutes, list them below.

additional statutes - 28 U.S.C. § 242; N.R.S. 41.0322;

28 U.S.C § 1343(a)(3); 42 U.S.C § 1983;

B. NATURE OF THE CASE

1) Briefly state the background of your case.

I am a inmate whom is Diagnosed with Gender Dysphoria as I am transistioning my gender from Male to Female as I am a transgender woman. I have been currently and have been being denied "Proper and Adequate" medical care. I am continuously being told treatments are Not available to me other then the medications I was on at time of arrest. Per NDOC Policy. This is a unconstitutional Medical Directive and policy being used in the NDOC. I have continuously requested to see a Endocrinologist (Hormone Dr.) and am denied. I ask for my Hormone levels to be check and am denied. I am continuously denied Sexual Reassignment surgeries with a reason of its a cosmetic surgery. Which it is not. I am denied proper medical care of my Gender Dysphoria. I tell the NDOC on a regular basis I am having major anxiety and depression everyday do to not being properly treated. And am ignored. This is abuse of my constitutional rights to be protected from cruel and unusual punishment. NDOC is using a "Blanket" Policy.

COUNT I / Count 2

The following civil rights has been violated: 8th Amendment to be protected from cruel and unusual punishment / Equal Protection Clause / 14 amendment deliberate indifference / Negligence.

Supporting Facts: [Include all fact you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be sure you describe exactly what each specific defendant (by name) did to violate your rights].

~~I am~~ I am a Transgender woman currently housed in High Desert State Prison a "male" Facility. Everyday being abused by NDOC and its Medical Dept for them using a "Blanket" medical policy which is unconstitutional. On or about 2012 through today's date I continue everyday attempting to receive "proper and adequate" medical treatment for my Gender Dysphoria (G.D). I have been and continue to be denied proper and progressive treatment for my (G.D) due to as I have been told in responses from medical requests and grievance responses, "No"; NDOC does not provide elective/cosmetic surgeries. As I continue to request Sexual Reassignment surgeries NDOC's Medical Directives and policies pertaining to Transsexualism are under a "Blanket rule" and "Freeze frame policy". I have told Psyc. and Medical Dept numerous times of major anxiety and depression issues due to not receiving proper treatment and I am ignored. When I came to prison my breast were larger, I had NO function of my penis. And body hair was minimal. Now due to NDOC-medical Dept. not properly treating me. My breast have shrunk; my body hair is growing all over and my penis now gets partial erections. Which is extremely emotionally depressing. And have written many medical request for help. But am ignored. I have written the Medical/Psyc. Dept about receiving proper treatment and they always verbally tell me its a medical issue Not psyc. And won't deal with me. I have grieved not being treated properly, and all grievances have been denied and although some grievances may be past time frame. The denial of proper and constitutional care (medical.) The denial of proper and adequate care (medical) is still continuing today and due to NDOC's rule of only being able to grieve the issue once and it was denied. I cannot grieve the issue anymore. But I am still being denied proper medical treatment of my G.D. which is a serious medical need. (See MERIWETHER v. FAULKNER 821 F.2d. at 414) G.D. is a serious medical need. And needs to be treated. It is cruel and unusual punishment and deliberate that I am being ignored, and denied proper medical treatment. Due to a blanket rule and none progression policy that is clearly unconstitutional, deliberate indifference. The Directors office and Medical dept have had numerous chances to address these issues. Which I have proof of them receiving Notice

(Counts 1 through 7 continued)

1 of these issues and ignoring them, this is a constitutional violation. I have asked to
 2 to be able to purchase and use "Feminine" Items such as (make up-panties, nail polish) ect,
 3 all of which are provided for use at the "Born Physically" woman's prison. Even though I am
 4 a woman, NDOC's policy on G.D. Medical Directive 121 rev. Oct. 16 2014 violates the
 5 Prison Rape Elimination Act under the 8th amendment, and its implementing regulations
 6 by requiring that transgender people/individuals be house solely on their genital
 7 characteristics and violates well established constitutional law and applicable medical
 8 standards by categorically limiting access to gender transition-related healthcare regardless
 9 of medical necessity. Further NDOC's policy on property (AR 711.1(5)) contains
 10 provisions restricting certain possessions to either "Male or Female" prisoners which
 11 is a violation of the 14th Amendment. I have repeatedly requested surgical treatment
 12 for my G.D. and have explained about the continual distress I go through everyday seeing
 13 the outside of my body don't match the inside. And am "ALWAYS DENIED" I continue
 14 to suffer significant harm daily due to these directives that do not allow me to be properly
 15 treated. I have included dates and grievances # of these issues and if discovery is
 16 allowed, I will be able to include all names of Drs, Nurses, and NDOC staff that have
 17 been involved or aware of these abuses/constitutional violations. To include dates of
 18 events and medical requests other than the ones I have listed between these dates pertaining
 19 to these violations. On or about 2012 through Today's date. Grievances # are
 20 also included with there responses.
 21 (Grievance # 2006-30-15774) (Filed 1-17-16) Response "Denied"
 22 Per NDOC policy, surgery request/demand need to be approved by the (URC) Utilization
 23 Review Committee panel per medical provider's recommendation. Medical provider ~~panel~~
 24 only recommends procedure if it is medically necessary. Unfortunately, your request does
 25 not qualify. Grievance Denied. I sent the 1st level grievance in on (2-20-16) and
 26 as of date still have got "No" response back 10 months later. This does not qualify
 27 for proper medical care. And is clearly showing negligence for my rights. Response of
 28 this grievance was from E. Albana (medical employee)
 (Grievance # 2006-30-05700) (Filed 8-5-15) response "Denied" Not accepted- Duplicate
 of grievance # 2006-30-02088) response of this grievance was from Jennifer Nash
 (Grievance # 2006-29-83414) (Filed 7-21-14) (Exhausted 8-3-15) response "Denied"
 (Grievance # 2006-29-02088) (Filed 6-7-15) response "Denied" Mr. Garcia
 Our current medical Directive 121.02 specifically states that these types of procedures are NOT
 allowed or performed on any inmate. Response of grievance was from- A. BuenCamino, J. Murphy
 Jennifer Nash, R. Arenas. NDOC staff and medical staff.
 (Grievance # 2006-30-14363) Grievance on NDOC Psyc Dept. (Filed 2-5-16) grievance not
 accepted- Duplicate of Grievance (RSD #2) Denied. which this is false it was not a duplicate
 so they NDOC wouldn't allow me to grieve the psyc. Dept.
 (Grievance # 2006-30-02924) Response Exhausted "Denied" (1-27-16) response from R. Arenas
 (Grievance # 2006-30-14363) Grievance Denied (RSD #1) RSD means rejected. Filed
 2-5-16
 (Grievance # 2006-29-95999) (Filed 3-1-15) Grievance "Denied" (Exhausted 11-2-15) response
 the suggestion for the requested policy change will be noted and referred to the P.R.E.A Compliance
 office. Informal Response is correct. The use of male pronouns is acceptable practice in a male
 institution. Currently there are No policies addressing the use of proper or improper use of gender
 identifying pronouns. Response to this grievance is from J. Howell, Dought Naven, Sheryl Foster,
 children.

1 all of the staff listed including medical staff were involved in All the abuses above. And
 2 numerous others I do not know the names and titles of. Unless discovery is allowed.
 3 If not directly involved in the Medical Dept, they were involved as chain of command
 4 superior officer/staff that are and were made aware of these abuses and ignored
 5 Denied addressing the constitutional violations. These abuses and the denial of
 6 proper medical care has been happening for years and no one is willing to listen
 7 due to this medical Directive and NDOC's policies.
 8 Counts 1-8 violations are all listed together as this is a continuously occurring
 9 problem and all 1 large event with multiple claims.
 10 Plaintiff incorporates all evidence and ~~and~~ facts above to all counts 1-8
 11 and plaintiff incorporates the facts of both case summary and all above.
 12 Plaintiff wishes to incorporate all of the documents, witness statements, reports
 13 and any other evidence that has been collected and retained by defendants
 14 currently not accessible to plaintiff. Plaintiff would also ask leave to
 15 amend this complaint with these materials once they are produced by defendants
 16

17 The way NDOC medical Dept. is not correctly treating me medically due
 18 to my hormone usages they could be killing me. My hormone levels are
 19 not tested or changed for proper body weight age ect. which could damage
 20 my organs internally. These issues have been brought up by me and I am told
 21 the Directive Does not allow progressive treatment. Without proper treat
 22 ment NDOC and its medical Dept could be killing me. Aside of the
 23 mental and physical torture they are causing me.

24 Plaintiff is also adding (Count 10 violation of the American Disabilities
 25 Act, -cruel and unusual punishment and Deliberate indifference,) as
 26 Gender Dysphoria (aka) Gender Identity Dysphoria is recognized as a
 27 psychiatric diagnosed disability. Within the DSM-V
 28

COUNT III/Count 4/Count 5

The following civil rights has been violated: 5th, 8th, and 14th Amendment. US constitutional Rights to Adequate Medical Care violated by Defendants all listed and (Does 1 thru 40) unknown Defendants.

Supporting Facts: [Include all fact you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be sure you describe exactly what each specific defendant (by name) did to violate your rights].

Plaintiff incorporates all evidence and facts within case summary and supporting facts on pages (4) (4A) (4-B) and nature of case on (pg 3) with all counts listed on this page (Count 3; Count 4; Count 5; Count 6; Count 7; Count 8) that are in this complaint. Plaintiff wishes to incorporate all of the document, witness statements; reports; medical file and any other evidence that has been collected and retained by defendants currently not accessible to plaintiff.

COUNT ~~6~~⁶ and ~~7~~⁷ and ~~8~~⁸ and ~~9~~⁹
~~(#6)~~ ↓

The following civil rights has been violated: Willful intentional and Knowing inflection
of Emotional and Physical Distress / (1) Willful intentional and Knowing Deprivation
of Civil Rights / (8) Negligence / (9) Equal Protection Clause / (10) violation of
American Disabilities Act.

Supporting Facts: [Include all fact you consider important. State the facts clearly, in your own words, and without citing legal authority or argument. Be sure you describe exactly what each specific defendant (by name) did to violate your rights].

Plaintiff incorporates all facts and evidence listed on pages
(# 3), (# 4), (# 4)A, (# 4)B) to all above listed counts.

(Count # 6 - Willful intentional and Knowing inflection of emotional
and physical Distress)

(Count # 7 Willful intentional and Knowing Deprivation of Civil Rights)

(Count # 8 Negligence)

(Count # 9 Equal Protection Claws)

(Count # 10 violation of American Disabilities Act)

D. PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF

- 1) Have you filed other actions in state or federal courts involving the **same or similar facts** as involved in this action? Yes ~~No~~. If your answer is "Yes", describe each lawsuit. (If more than one, describe the others on an additional page following the below

outline).

- a) Defendants: _____
- b) Name of court and docket number: _____
- c) Disposition (for example, was the case dismissed , appealed or is it still pending?):

- d) Issues raised: _____

- e) Approximate date it was filed: _____
- f) Approximate date of disposition: _____

- 2) Have you filed an action in federal court that was **dismissed because it was determined to be frivolous, malicious, or failed to state a claim upon which relief could be granted?**
___ Yes X No. If your answer is "Yes", describe each lawsuit. (If you had more than three actions dismissed based on the above reasons, describe the others on an additional page following the below outline.)

Lawsuit #1 dismissed as frivolous, malicious, or failed to state a claim:

- a) Defendants: _____
- b) Name of court and case number: _____
- c) The case was dismissed because it was found to be (check one): ___ frivolous
___ malicious or ___ failed to state a claim upon which relief could be granted.
- d) Issues raised: _____

- e) Approximate date it was filed: _____
- f) Approximate date of disposition: _____

Lawsuit #2 dismissed as frivolous, malicious, or failed to state a claim:

- a) Defendants: _____
- b) Name of court and case number: _____

- c) The case was dismissed because it was found to be (check one): _____ frivolous
_____ malicious or _____ failed to state a claim upon which relief could be granted.
- d) Issues raised: _____

- e) Approximate date it was filed: _____
- f) Approximate date of disposition: _____

Lawsuit #3 dismissed as frivolous, malicious, or failed to state a claim:

- a) Defendants: _____
- b) Name of court and case number: _____
- c) The case was dismissed because it was found to be (check one): _____ frivolous
_____ malicious or _____ failed to state a claim upon which relief could be granted.
- d) Issues raised: _____

- e) Approximate date it was filed: _____
- f) Approximate date of disposition: _____

- 3) Have you attempted to resolve the dispute stated in this action by seeking relief from the proper administrative officials, e.g., have you exhausted available administrative grievance procedures? ☒ Yes _____ No. If your answer is "No", did you not attempt administrative relief because the dispute involved the validity of a: (1) _____ disciplinary hearing; (2) _____ state or federal court decision; (3) _____ state or federal law or regulation; (4) _____ parole board decision; or (5) _____ other _____.

If your answer is "Yes", provide the following information. Grievance Number _____

Date and institution where grievance was filed H.D.S.P.; W.S.C.C.

Response to grievance: All grievances denied.

E. REQUEST FOR RELIEF

I believe that I am entitled to the following relief:

- ① Punitive Damages in excess of 10,000^{.00} per defendant per violation
- ② Compensatory Damages in excess of 10,000^{.00} per defendant per violation
- ③ Declaratory Judgment As to all cost
- ④ Separate Damages for willful, Intentional and Knowing Deprivation of Civil Rights
- ⑤ Separate Damages for Intentional infliction of Emotional and Physical Distress - per defendant
- ⑥ Gender reassignment surgery, Hair removal, Breast implants,
- ⑦ Injunctive Relief -
- ⑧ All attorney fees, costs, postage, copy cost,

I understand that a false statement or answer to any question in this complaint will subject me to penalties of perjury. I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT. See 28 U.S.C. § 1746 and 18 U.S.C. § 1621.

(Name of Person who prepared or helped
prepare this complaint if not Plaintiff)

Kisha Lisa
(Signature of Plaintiff)

January 25th 2017
(Date)

(Additional space if needed; identify what is being continued)

- ⑨ Release
- ⑩ Transfer to another prison of choice
- ⑪ Write proper policy's for NDOC treatment of Transgender inmates, to include Medical Directives,

I Karisma Garcia on the 25th day of January, 2017 placed a copy of the following 42 USC § 1983 in the mail at the High Desert State Prison. Using US first class postage to the followings:

Attorney General's office

The State of Nevada

Nevada Dept of corrections

Director James Dzurenda

NDOC medical Dept (Dr. Areano)

Dwight Neven (Warden)

Brian Williams (Warden)

Karisma Garcia

Jan 25, 2017

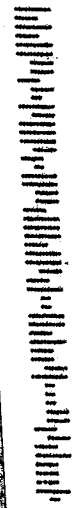
Marisma Garcia # 68529

H.D.S.P

Po Box 650

Indian Springs, Nevada.

89070



Clerk, U.S. District Court
District of Nevada
333 Las Vegas Blvd. South
Las Vegas, Nevada.
89101

Legal Mail

Hasler
02/02/20